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July 27, 2017

VIA CM/ECF

Honorable Gregory M. Sleet
United States District Judge
United States District Court
District of Delaware
844 North King Street
Room 4324, Unit 19
Wilmington, DE 19801

Re: WMI Liquidating Trust v. FDIC, et al.
Case No. 14-01097 (GMS)

Dear Judge Sleet:

As you are aware, this firm and O’Kelly Ernst & Joyce, LLC represent a number of Employee Defendants in the above-referenced matter. We write to respond to the letter filed by counsel for WMI Liquidating Trust (“WMILT”) on July 25, 2017 [D. Del. D.I. 141], which distorted statements made by our clients in their recently-filed reply brief [D. Del. D.I. 138].

In particular, our clients have consistently asserted throughout these proceedings that the agreements and plans at issue were obligations that WMILT is responsible for as a result the global benefits package offered to all of the Employee Defendants, regardless of which entity contracted with the employee. In fact, that position is the basis for a specific request for declaratory relief in the Counterclaims asserted by certain Employee Defendants. *See* [D. Del. D.I. 71] at 50. Yet, erroneously, WMILT alleges that the Employee Defendants’ statement to that effect in their reply brief is “a significant misrepresentation.” WMILT is wrong in making that allegation, and doubly so for electing to present such an ill-considered allegation in a letter after the motion has been fully briefed. WMILT’s letter simply emphasizes WMILT’s failure to recognize, at best, the Employee Defendants’ legal argument regarding its liabilities.

The litigation tactics employed by WMILT in its letter—suggesting to the Court that counsel has misrepresented material facts—are wholly inappropriate. The parties’ briefing on

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the Employee Defendants' motion for judgment on the pleadings, including the inapplicable *Williams* litigation cited in WMILT's letter, is sufficient for the Court to decide the issues presented. Accordingly, WMILT's letter is misleading in its characterization of a basic point in the reply brief and an unnecessary distraction prior to adjudication of the issues pending before this Court.

Should the Court have any questions regarding the matters discussed herein, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Stephan Kyle
STEPHAN E. KYLE

CC: Brian S. Rosen, Esq.
Marcos Ramos, Esq.
Michael Joyce, Esq.